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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,915	12/07/2001	Vikram Pillai	SBACK-001XX	6110
207	7590	07/12/2006	EXAMINER	
WEINGARTEN, SCHURGIN, GAGNEBIN & LEOVICI LLP TEN POST OFFICE SQUARE BOSTON, MA 02109			GEREZGIHER, YEMANE M	
			ART UNIT	PAPER NUMBER
			2144	

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/010,915

Applicant(s)

PILLAI ET AL.

Examiner

Yemane M. Gerezgiher

Art Unit

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-14 and 17-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-14 and 17-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/13/2006 has been entered. Claims 3-4, 15 and 16 have been cancelled by the amendment. Thus, claims 1,2, 6-14 and 17-25 are now pending in this application.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 5-8, 10-13, 17-20, and 22-25 are rejected 35 U.S.C. 103(a) as being unpatentable over Staveley et al. (U.S. Patent Number 6,973,491) hereinafter referred to as Staveley.

As per claims 1, 13 and 25: A distributed method/system for performing network monitoring [Title and Abstract], comprising:

Staveley disclosed obtaining by infrastructure management appliance, customer specific information from a remote data center over interface to said infrastructure management appliance [Column 9, Lines 55-57, client information initially is received over an HTTP interface], establishing, by an infrastructure management appliance, a secure virtual connection with a remote data center [Column 1, Lines 58-62, Column 2, Lines 12-14 and Figs. 1-2, Staveley disclosed a network management and monitoring framework transmitting monitored and collected status of a communication device to a central data server/site via a session created between the monitoring module and the central data center], the infrastructure management appliance being connected to a public network, [Fig. 2 and Column 3, Lines 33-45, Staveley disclosed a network management and monitoring framework referred as “data collection system”, been connected to the public communication network (“Internet”)] the customer network being connectable to the public network [Column 3, Lines 33-45 and Figs. 1-2, Staveley disclosed a client network having therein plurality of communication devices, the client network been connected to the public communication network], Staveley disclosed obtaining customer specific information from said remote data center, wherein said establishing of said secure virtual connection with said remote data center is responsive to said customer specific information obtained from a remote data

center over another interface to said infrastructure management appliance [Column 3, Lines 49-53 Column 7, Line 60 through Column 8, Line 11 and Column 9, Lines 55-57, Staveley disclosed establishing a secure connection based on a client access configuration information, a secure connection been established over a secure interface (HTTPS/SSL)] wherein the establishing step includes establishing the secure virtual connection with the remote data center over the public network over another interface to said infrastructure management appliance [Column 3, Lines 49-54, Staveley disclosed a secure communication connection created between the monitoring framework connected to the client network and the central data server via the Internet]; monitoring, by said infrastructure management appliance, at least one customer resource, the customer resource being connected to the customer network, wherein the monitoring step includes monitoring the customer resource over the customer network[Abstract, Figs. 1-2 and Column 1, Line 48 through Column 2, Line 14, Staveley disclosed monitoring target devices coupled to the client network]; and transmitting information obtained through said monitoring of said customer resource to said remote data center over said secure virtual connection [Column 3, Lines 49-54 and Column 9, Lines 48-57, Staveley disclosed uploading the information collected by the data collectors of the monitoring framework to a central data server via a communication connection over the Internet through a secure communication connection. Furthermore, since the teachings of Staveley are performed in a computer

system, a processor, a computer memory and a computer code were inherently disclosed by the teachings of Staveley].

Staveley substantially disclosed the invention as claimed. The only difference between the claimed invention and the teachings of Staveley is solely a wording variation and minimal differences such as sequential numbering of the claimed “first interface” and “second interface”. Having that said, an ordinary skill in the art recognizes that during a formation of a secure virtual connection or a VPN for that matter, the user information having therein some parameters including user identification, virtual address and so on is required. Before a secure virtual connection or VPN could be created via a communication interface, the user information must be obtained via some interface. Thus, it is respectfully submitted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have recognized the conventional steps of establishing a secure virtual connection or a VPN which requires obtaining user specific information via one interface and creating a secure virtual connection via another interface based on the obtained user information.

As per claims 5 and 17: Staveley disclosed monitoring of said at least one customer resource performed over said second interface to said infrastructure management appliance [Abstract, Figs. 1-2 and Column 1, Line 48 through Column 2, Line 14, Staveley disclosed monitoring target devices coupled to the

client network where the remote monitoring of the communication devices of the client network is performed over the secure interface (HTTPS/SSL). See Column 9, Lines 55-57].

As per claims 6 and 18: Staveley disclosed obtaining of said customer specific information over said first interface to said infrastructure management appliance comprises obtaining said customer specific information through dial up access over a serial line to said data center [Abstract, Column 1, Lines 64-67, Column 3, Lines 8-10 and Column 3, Line 60 through Column 4, Line 2].

As per claims 7, 8, 19 and 20: Staveley disclosed obtaining of said customer specific information further comprises obtaining an network address (“obtaining an IP address”) of said infrastructure management appliance from said remote data center [Column 8, Lines 18-25].

As per claims 10 and 22: Staveley disclosed generating a synthetic transaction with respect to at least one customer application, and storing a result obtained from said customer application in response to said synthetic transaction [Column 3, Lines 15-59 and Column 4, 28-42, collecting status information using the data collection application program(s) and storing the collected information in a database].

As per claims 11 12, 23 and 24: Staveley disclosed discovering at least one customer operational environment attribute [Column 1, Lines 61-67 and Column 13, Line 48 through Column 14, Line 15, user connection request to

establish a communication session and customer attributes used in performing the steps]; and configuring said first interface to said infrastructure management appliance in response to said at least one customer operational environment attribute, wherein said at least one customer operational environment comprises a dial-out prefix. [Column 2, Line 63 through Column 3, Line 10 and Column 7, Line 60 through Column 8, Line 11, client configuration attributes are collected, where the collected attributes include a dial-up access numbers in forming a communication connection].

4. Claims 2 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Staveley et al. (U.S. Patent Number 6,973,491) in view of Liu (U.S. Patent Number 6,079,020).

As per claims 2 and 14: The teachings of Staveley substantially disclosed the invention as claimed including establishing a secure communication connection with the central data server. However, Staveley was silent about establishing a VPN (Virtual Private Network). However as evidenced by the appreciation of Liu, establishing a Virtual Private Network was commonly known in the art at the time the invention was made. See Column 2, Lines 16-19.

Thus, it is respectfully submitted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to make use of



the commonly known procedure of establishing a VPN in order to protect data transmitted over public networks. See Liu, Column 2, Lines 16-19.

5. Claims 9 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Staveley et al. (U.S. Patent Number 6,973,491) in view of Bhaskaran et al. (U.S. Patent Number 6,601,084) hereinafter referred to as Bhaskaran.

As per claims 9 and 21: The teachings of Staveley substantially disclosed the invention as claimed. However, Staveley failed to teach periodically polling of a server system to determine whether said server system is in an operational state.

However, as evidenced by the teachings of Bhaskaran, periodically polling of a server system to determine whether said server system is in an operational state was known in the art at the time of the invention. See Column 12, Lines 20-32.

Thus, it is respectfully submitted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of Bhaskaran related to periodically polling a server and have modified the teachings of Staveley in order to determine functional status of a server. See Column 12, Lines 27-29.

***Response to Arguments***

6. Applicant's arguments filed 03/13/2006 have been fully considered but they are not persuasive.

- The inventive entity argue that “the Staveley reference provides no teaching that the network connection 19 (the client network) is connectable to the public Internet 16” (Applicant’s Remark Page 14, Last three lines of ¶2)

→ The examiner respectfully disagrees with that contention. In Fig. 2 and Column 3, Lines 33-45, Staveley disclosed a network management and monitoring framework referred, which is connected to the public communication network (“Internet”)] and in Column 3, Lines 33-45 and Figs. 1-2, Staveley disclosed a client network having therein plurality of communication devices, the client network been connected to the public communication network].

- The inventive entity further argues that the “HTTP interface” and the “secure HTTPS/SSL interface” disclosed in the Staveley reference do not correspond to the first and second interfaces to the infrastructure management appliance” (Applicant’s Remark Page 17, ¶2).

→ the examiner note that two different interfaces been used by the teaching of Staveley to perform the functions of obtaining user information via HTTP interface and creating/establishing a secure virtual connection using a secure interface HTTPS/SSL.

- The inventive entity recites, "...the Liu reference fails to disclose a distributed method for performing network monitoring that includes obtaining customer specific information from a remote data center over a first interface to an infrastructure management appliance and responsive to the customer specific information establishing a secure virtual connection with the remote data center through a public network over a second interface to the infrastructure management appliance".

(Applicant's Remark Page 19, ¶3)

→ the examiner likes to point that the Lui reference is relied upon merely for the missing limitation of creating a VPN in the teachings of Staveley. Thus, since Lui is relied upon the teachings of creating a VPN, applicant's argument that Lui does not teach the limitations recited above is not proper.

### **Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Ilnicki et al. (US 6751677 B1) entitled: "Method and apparatus for allowing a secure and transparent communication between a user device and servers of a data access network system via a firewall and a gateway"  
Ilnicki DISCLOSED "...automatically mapping a user request to the IP address and port of the target server without requiring the user request to expose the IP address and port number of the target server. This in

turn allows secure connection to be established between the user terminal 31 and the target server of the servers 34 because the mapping is done without requiring the user request to contain information of the IP address and port number of the target server. This also allows the user object invocation request to be transmitted via the SSL (i.e., the SSL 61), thus providing end-to-end security (e.g., authentication, confidentiality, and integrity). It also means that data can be encrypted end-to-end (i.e., from the user terminal 31 to the target object server). See Column 7, Lines 18-30.

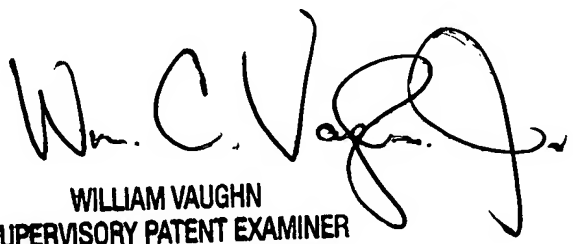
b. Luneau et al. (US 5848161 A) entitled: "Method for providing secured commercial transactions via a networked communications system"

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yemane M. Gerezgiher whose telephone number is (571) 272-3927. The examiner can normally be reached on 9:00 AM - 6:00 PM Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YMG, AU: 2144  
Patent Examiner

  
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